

Members

Sen. Beverly Gard, Chairperson
Sen. Lindel Hume
Sen. Marvin Riegsecker
Sen. Karen Tallian
Rep. Ryan Dvorak
Rep. David Wolkins
Rep. Matt Pierce
Rep. Marlin Stutzman
Doug Meyer
Stephen L. Murray
Dave Wyeth
Dwayne Burke
Stacy Herr
John Hardwick
Art Umble
Calvin Davidson
Jon H. Moll
Thomas Easterly



ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Authority: IC 13-13-7

MEETING MINUTES¹

Meeting Date: October 3, 2007
Meeting Time: 9:30 A.M.
Meeting Place: Senate Chamber, State House, 200
W. Washington St.
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Beverly Gard, Chairperson; Sen. Lindel Hume; Sen. Karen Tallian; Rep. Ryan Dvorak; Rep. David Wolkins; Rep. Marlin Stutzman; Doug Meyer; Stephen L. Murray; Dave Wyeth; Dwayne Burke; Stacy Herr; John Hardwick; Art Umble; Calvin Davidson; Jon H. Moll.

Members Absent: Sen. Marvin Riegsecker; Rep. Matt Pierce; Thomas Easterly.

1. Call to Order

Sen. Gard called the meeting to order at 9:38 A.M.

2. Recognition of Kari Evans

Kari Evans is leaving the position of Policy Director for the Governor. Sen. Gard and the council expressed their appreciation for Ms. Evans' invaluable service. Ms. Evans

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

introduced her replacement, David Pippen.

3. Environmental Rulemaking Issues

A presentation concerning environmental rulemaking (Exhibit #1) was made by Elizabeth DuSold, Eli Lilly and Company, on behalf of the Environmental Law Section of the Indiana State Bar Association. She also distributed to council members a table entitled Trustworthiness of Indiana's Primary Legal Resources (Exhibit #2). In response to questions from council members, Ms. DuSold addressed the following:

- The absence of a printed version of the current Indiana Administrative Code
- The difficulties in developing a method for fiscal analysis of proposed environmental rules
- Whether other states' environmental rulemaking models are useful

Jack Ross, Executive Director, Indiana Legislative Services Agency, noted that he has met with representatives of the Indiana State Bar Association concerning environmental rulemaking issues, and that he anticipates dialogue seeking to resolve those issues. Ms. DuSold expressed the Association's interest in pursuing that dialogue.

Nancy King, attorney for the Indiana Department of Environmental Management (IDEM) expressed her hope that the expedited rulemaking enacted in the 2007 session for rules that qualify under IC 13-14-9-8 might be expanded to other types of rules once input is received on the expedited process.

A presentation concerning environmental rulemaking (Exhibit #3.) was made by Dr. William Beranek on behalf of an ad hoc group of interested parties that has studied environmental rulemaking issues. In response to questions from council members, Dr. Beranek addressed the following:

- The possible use of personnel from state funded universities or other entities to act as technical staff to the environmental rulemaking boards (ERB's)
- The possibility that the ERB's might employ their own technical staff
- Other states' experience with ERB's that have professional members
- The usefulness of the first public notice in the environmental rulemaking process
- The environmental rule approval process in states with professional ERB's
- The length of the environmental rulemaking process in other states

A presentation concerning environmental rulemaking (Exhibit #4) was made by Janet McCabe, Executive Director, Improving Kids' Environment, on behalf of environmental interests. In response to questions from council members, Ms. McCabe addressed the following:

- The difficulties in developing a method for fiscal analysis of proposed environmental rules
- The possible establishment of a rulemaking ombudsman or a similar position
- The possibility of making state agency appointees to ERB's ineligible to vote
- The possible use of teleconferencing for remote environmental rulemaking hearings
- The ways in which environmental interests are disadvantaged in the environmental rulemaking process

A presentation concerning environmental rulemaking (Exhibit #5) was made by Vince Griffin, Vice President, Energy and Environmental Policy, Indiana Chamber of Commerce, on behalf of the interests of business and industry. In response to questions from council members, Mr. Griffin addressed the difficulties in developing a method for fiscal analysis of proposed environmental rules.

A presentation concerning environmental rulemaking was made by Sandra Flum, Director, Community Relations, Office of External Affairs, IDEM. She described the nature and extent of resources devoted by IDEM to environmental rulemaking, and noted the difficulty in keeping the ERB's staffed with interested people educated in the appropriate subject areas. In response to questions from council members, Ms. Flum addressed the following:

Whether IDEM will recommend legislative changes in the environmental rulemaking process

The multiple duties and the work priorities of IDEM personnel involved in the environmental rulemaking process

Glenn Pratt addressed the council concerning the need for IDEM to seek comments from true experts and moderate voices representing all interests in the environmental rulemaking process. He expressed his opinion that state agency appointees to ERB's should be ineligible to vote.

4. Informal Work Group

Sen. Gard advised the council that she has appointed an informal work group consisting of Art Umble, John Hardwick, and Stephen Murray to address storm water issues and to report to the council at the October 23 meeting.

5. Recycling Issues

A presentation entitled Issues Relating to Recycling and Solid Waste Management Programs (Exhibit #6) was made by Karen Firestone, Fiscal Analyst, Indiana Legislative Services Agency. Sen. Gard noted that it would be useful to identify possible amendments to state solid waste management fee statutes in order to resolve conflicts.

Carey Hamilton, Legislative Liaison, Indiana Recycling Coalition, and Michelle Cohen, Executive Director, made a presentation concerning recycling issues (Exhibit #7). They also distributed to council members a brochure entitled Recycling is Working in Indiana (Exhibit #8) and a summary of reasons to recycle (Exhibit #9). In response to questions from council members, the presenters addressed the following:

- The methodology for calculating waste diversion rates
- The Recycling Coalition's view of the role of waste-to-energy facilities
- Programs and education for recycling of electronic waste
- The success of bottle deposit programs in other states
- The importance of recycling outside the mainstream recycling programs

Lance Hodge addressed the council concerning recycling from the perspective of Solid Waste Management Districts. In response to questions from council members, Mr. Hodge addressed the following:

- The selection of representative locations for the statewide waste audit
- The authority of local governments to direct waste streams to their own waste disposal facilities
- Whether other states ban the disposal of cathode ray tubes in landfills
- Efforts to encourage businesses to decrease their waste production
- Whether there should be statutory direction on the use of electricity generated by waste-to-energy facilities
- The need to publicize recycling successes to spur additional participation in recycling programs

David Lamm, Administrator, Boone County Solid Waste Management District, addressed the council concerning recycling issues. In response to questions from council members, Mr. Lamm addressed the following:

- With respect to the use of chipped used tires in the construction of septic systems, the required depth of the field and the efficiency, longevity, and availability of the chips
- Whether any facilities are burning whole used tires
- The disposal of chips when use of the septic system is discontinued
- Whether oil contained in the chips is released into the soil
- The potential misperception that the use of chips could allow a septic system to function in otherwise unsuitable circumstances

Nelson Becker made a presentation concerning recycling on behalf of the National Solid Waste Management Association. He noted that his members run recycling operations and emphasized that recycling is most successful when local communities are at the forefront of the effort. He believes that curbside recycling without sorting by the customer is more successful than drop off programs, but that there is necessarily a cost to the customer.

Miriam Dant and Douglas McGregor, Environmental Engineer, Steel Dynamics, Inc. made a presentation concerning the company's composting project (Exhibit #10). In response to questions from council members, the presenters addressed the following:

- The materials that are composted and the agents that are used for biological inoculation of the compost
- The uniformity of the composted waste stream
- The permit application for the composting facility pending with IDEM
- The land area required for the project

Cindy Adams, Manager, Government Relations, Covanta, made a presentation concerning the company's energy-from-waste facilities (Exhibit #11). She also distributed to council members a brochure entitled Reduce Reuse Recycle (Exhibit #12). In response to questions from council members, Ms. Adams addressed the following:

- The materials that are reclaimed from waste before incineration
- The standards for determining what may be included in the waste material
- The tipping fee for the Indianapolis energy-from-waste facility
- The magnitude of the waste stream required for an energy-from-waste facility
- The air emissions from incineration

A presentation concerning recycling was made by Sandra Flum, Director, Community Relations, Office of External Affairs, Indiana Department of Environmental Management (IDEM). She emphasized the importance of the availability of recycling opportunities for all citizens, especially to the extent that recycling operations are publicly funded. It is also important to consider whether recycling can be market driven, to develop recycling measurement in order to improve operations, and to examine inequities in recycling standards among various communities. She indicated that direction from the council and the General Assembly on recycling policy would be appreciated. In response to questions from council members, Ms. Flum addressed the following:

- The extent to which recycling grants are analyzed concerning the need for the grants to sustain the recycling projects
- The use of revenue generated from solid waste fees
- The status of the pending composting permit application of Steel Dynamics, Inc.

6. Adjournment

Sen. Gard adjourned the meeting at 3:45 P.M.